

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CHRISTOPHER A. JONES,

Plaintiff,

vs.

DWIGHT NEVEN, *et al.*,

Defendants.

Case No. 2:07-cv-01088-JCM-GWF

**ORDER**

Motion to Compel (#133)

This matter is before the Court on Plaintiff Christopher A. Jones' Motion to Compel (#133), filed March 17, 2011.

Plaintiff requests an order compelling Defendant Dwight Neven to respond substantively to several requests for production and two interrogatories. (*Id.*) To date, no party has responded to this motion and the time for opposition has now passed. LR 7-2(d) states in pertinent part, that "[t]he failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." As a result, the Court will grant the present motion in part and order Defendant to substantively respond to requests for production nos. 3-4, 9 and 17 and interrogatory no. 2.

In addition, because Defendant failed to timely respond to Plaintiff's discovery requests, Defendant shall substantively respond to requests for production nos. 3-4, 9 and 17 and interrogatory no. 2 without objection. A party who fails to serve responses or objections in a timely manner has waived any and all objections to discovery requests. Fed.R.Civ.P. 33(b), 34(b); *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992) (finding waiver of objections due to untimely response to requests for production); *David v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981) (finding waiver of objections due to untimely response to interrogatories). See also *Senat v. City of New York*, 255 F.R.D. 338, 339 (E.D.N.Y. 2009) (stating that "there is consistent authority that a failure

1 to serve timely responses to interrogatories and document requests serves as a waiver of objections.”);  
2 *Ramirez v. County of Los Angeles*, 231 F.R.D. 407, 409-10 (C.D.Cal. 2005).

3 This order does not rule upon Plaintiff’s request to compel a substantive response to  
4 interrogatory no. 1, which requests the addresses of former inmates who are not parties to this action.  
5 Plaintiff indicates that the two former inmates are eye witnesses to the subject incident of this action.  
6 (#133). The Court will schedule a hearing on the issue of whether Defendant should substantively  
7 respond to interrogatory no. 1 and the manner the information should be provided. Accordingly,

8 **IT IS HEREBY ORDERED** that Plaintiff Christopher A. Jones’ Motion to Compel (#133) is  
9 **granted in part**. Defendant Neven shall substantively respond without objection to Plaintiff’s requests  
10 for production nos. 3-4, 9 and 17 and interrogatory no. 2 by **May 9, 2011**.

11 **IT IS FURTHER ORDERED** that a motion hearing is set for **Tuesday, May 17, 2011 at 9:30**  
12 **AM** in LV Courtroom 3A before Magistrate Judge George Foley, Jr. on Plaintiff’s motion to compel  
13 Defendant Neven to respond substantively to interrogatory no. 1.

14 **IT IS FURTHER ORDERED** that the Attorney General shall make arrangements for Plaintiff  
15 to be available telephonically for this hearing and shall contact the Courtroom Deputy at (702) 464-  
16 5418 two (2) days prior to this hearing to advise the Court of the telephone number where the plaintiff  
17 may be reached the day of the hearing. The plaintiff shall be available (10) minutes prior to the hearing  
18 so the Courtroom Deputy may initiate the conference call.

19 DATED this 19th day of April, 2011.

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22 **GEORGE FOLEY, JR.**  
23 **United States Magistrate Judge**  
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